

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MICHAEL STEVEN MOATES,	§	
Plaintiff,	§	
	§	
v.	§	C.A. NO. 6:22-CV-00626-ADA-JCM
	§	
JOSEPH R. BIDEN, JR., et al.,	§	
Defendants.	§	
	§	

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE ALAN D ALBRIGHT,
UNITED STATES DISTRICT JUDGE**

This Report and Recommendation is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges. Before the Court are Plaintiff’s Motion to Proceed in forma pauperis (ECF No. 2). For the following reasons, the Court **RECOMMENDS** that Plaintiff’s Motion be **DENIED**.

I. DISCUSSION

The undersigned recommends denying Plaintiff’s Motion to Proceed in forma pauperis. The Court may grant in forma pauperis status to an indigent litigant “who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). The Court has limited discretion to deny such an application based on the litigant’s financial information. *Adkins v. E.I. Du Pont De Nemours & Co., Inc.*, 335 U.S. 331, 337 (1948).

The Court must consider whether paying filing fees and court costs will cause undue financial hardship. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988). The Court must review the litigant's financial resources as well as expenses and whether those expenses are discretionary or mandatory. *Id.* Courts may look to where the litigant's reported income is in relation to applicable poverty guidelines. *See, e.g., Mann v. City of Moss Point*, No. 1:14cv237-KS-MTP, 2014 WL 4794544, at *2 (S.D. Miss. Sept. 25, 2014); *Williams v. Louisiana*, No. 14-00154-BAJ-EWD, 2017 WL 3124332, at *2 (M.D. La. April 14, 2017); *Bruton v. Colvin*, No. 4:14-CV-083-A, 2014 WL 840993, at *1 (N.D. Tex. Mar. 4, 2014).

Here, Plaintiff reports his monthly gross income to be \$2,600. Mot. at 1. The applicable poverty guideline for a family of one is \$13,590. U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation, *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Programs*, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (last visited June 29, 2022). Plaintiff's annual household income totals \$31,000, well above the poverty guideline for a family of one. Further, Plaintiff indicates he has additional resources of \$122 in a checking or savings account. Mot. at 2. Thus, Plaintiff's financial affidavit shows he has resources to pay the filing fee.

II. CONCLUSION

For the reasons discussed above, the Court **RECOMMENDS** that Plaintiff's Motion to Proceed in forma pauperis (ECF No. 2) be **DENIED** and that Plaintiff be ordered to pay the filing and administrative fees within seven (7) days after the district judge's order.

III. OBJECTIONS

The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150-53; *Douglass*, 79 F.3d at 1415.

SIGNED this 29th day of June, 2022.



JEFFREY C. MANSKE
UNITED STATES MAGISTRATE JUDGE